

Leasing Powers (Ireland) Bill.

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B I L L

TO

Consolidate and amend the Laws relating to Leasing
Powers in Ireland.

[Note.—The Words printed in *Italics* are proposed to be inserted
in Committee.]

WHEREAS it is expedient to consolidate and amend the Provisio.
Laws relating to the Power of leasing Lands, Tenements,
and Hereditaments in Ireland by Persons having partial
or limited Interests in the same, or being under legal Incapacity or
Disability, so as to render the said Powers more uniform and generally
understood, and more extensive and beneficial to the Community at
large, and more conducive to the Development of the agricultural,
mineral, and commercial Resources of the Country: And whereas
it is also expedient that Persons having such partial and limited
Interests in such Lands, Tenements, and Hereditaments as aforesaid
should be enabled to enter into Agreements binding the Inheritance,
and entitling the Tenants thereof, in certain Cases, at the Termination
of their Tenancies, to Compensation for the Execution of suitable
Improvements therein: Be it therefore enacted by the Queen's most
Excellent Majesty, by and with the Advice and Consent of the
Lords Spiritual and Temporal, and Commons, in this present Par-
liament assembled, and by the Authority of the same, as follows:

I. That in the Construction of this Act the Word "Lessor" shall Glossary:
extend to a Body Politic, Corporate, or Collegiate, making Leases: "L. essor:

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The

- "Lessee:" The Word "Lessee" shall include the personal Representatives of any Lessee and his lawful Assigns :
- "Person:" The Word "Person" shall include any Body Politic, Corporate, or Collegiate :
- "Lands:" The Word "Lands" shall include corporeal Messuages, Tenements, 5 and Hereditaments of every Tenure :
- "Perpetual Interest:" The Expression "perpetual Interest" shall comprehend, in addition to any greater Interest, any Lease or Grant for One or more than One Life, with or without a Term of Years, or for Years, whether absolute or determinable on One or more than One 10 Life, with a Covenant or Agreement by a Party competent thereto in any of such Cases, whether contained in the Instrument by which such Lease or Contract is made, or in any separate Instrument, for the perpetual Renewal of such Lease or Grant :
- "Successors in Estate:" The Expression "Successors in Estate" shall mean the Persons entitled for the Time being after the Lessor to the actual Receipt of the Rents and Profits of the Lands comprised in such Lease under the same Title, Settlement, or Will, with the Lessor, or under the Exercise of any Power affecting such Title, 20 or contained in such Settlement or Will, and who but for the making of the said Lease would be entitled to Possession of the Lands, or to the Possession subject to any other existing Lease :
- "Landlord:" The Word "Landlord" shall mean the Person entitled for the 25 Time being to recover the Rent reserved by such Lease :
- "Entitled:" The Word "entitled" shall mean entitled either legally or equitably :
- "Settlement:" The Word "Settlement" shall include every Assurance, or connected Set or Series of Assurances, whether by Deed, Will, 30 Private Act of Parliament, or otherwise, by which Lands are or shall be limited in a Course of Settlement, or agreed so to be.
- Short Title. II. In citing this Act in any Instrument, Document, Proceeding, or Act of Parliament it shall be sufficient Designation to use the Expression "The Leasing Powers Act (Ireland), 1853." 35

- Persons enabled to make Leases. With respect to the Persons hereby empowered to make Leases :
- III. Every Person herein-after described entitled in possession to any Estate or Interest herein-after named in Lands in Ireland, or to the Receipt from the occupying Tenants of the Rents and Profits thereof, whether or not such Estate shall be subject to any Mortgage 40 or other Incumbrance (provided the Incumbrancer shall not be in possession), shall have Power to make Leases of all or any Part of the said Lands (other than the See, Glebe House, or Mansion House and

and Demesne Lands, or Parks, Plantation, or Orchard, and Pleasure Grounds and Appurtenances belonging to or usually occupied with such See, Glebe House, or Mansion House,) for the Purposes and Periods of Time, and subject to the Rents, Rights of Apportionment
5 of Rent, Covenants, and Conditions herein stated; (that is to say,)

- (1.) Her Majesty the Queen, and Her Successors, Kings and Queens of Great Britain and Ireland, and the Commissioners of Her Majesty's Woods and Forests, in respect of Lands situate in the Kingdom of Ireland :
- 10 (2.) Tenants in Fee Simple or Fee Farm, or seised of a perpetual Estate subject to any Mortgage or Incumbrance :
- (3.) Tenants in Tail, or quasi Entail, of an Estate of Inheritance or perpetual Interest :
- 15 (4.) Tenants for the Term of their own Lives, not being Jointresses, or for the Life or Lives of any other Person or Persons, or for so many Years as they may live, or for an unexpired Term or Residue of a Term of Sixty Years, whether absolute or determinable on their own Life, created out of an Estate of Inheritance or perpetual Interest by any Settlement :
- 20 (5.) Married Women entitled to any Estate specified in Numbers (2.), (3.), or (4.), for their separate Use, and whether restrained or not from Anticipation :
- (6.) Tenants by the Courtesy of England and Tenants in Dower :
- 25 (7.) Husbands seised in right of their Wives, or by Entireties with their Wives, provided that the Wife is entitled to any Estate specified in Number (2.), (3.), or (4.), and shall be a consenting and executing Party to the Lease, whether Adult or under Age :
- 30 (8.) Archbishops, Bishops, and other Ecclesiastical Persons, seised in right of their Dignities or Benefices, with the Consent, in the Case of a Rector, Vicar, or Perpetual Curate, of the Archbishop or Bishop of the Diocese, signified in Writing on such Lease; provided that no Lease made by any Ecclesiastical Person or Corporation, for any Term exceeding Thirty-one Years, shall be valid without the Licence in Writing of the Lord Lieutenant or other Chief Governor or Governors of Ireland for the Time being, such Writing to be made on or annexed to such Lease :
- 35 (9.) Corporations, Lay, Eleemosynary, and Collegiate, whether Aggregate or Sole, and the Ecclesiastical Commissioners for Ireland; provided that no Lease made by any Municipal Corporation or Board of Guardians of the Poor, for any Term exceeding Thirty-one Years, shall be valid, without the Licence in Writing, in the Case of a Municipal Corporation, of the Lords Commissioners of Her Majesty's Treasury,

or any Two of them, and in case of such Board of Guardians of the Poor, of the Poor Law Commissioners, such Licence to be made on or annexed to the said Lease:

- (10.) Trustees and Feoffees of charitable and other Uses, and seized or possessed of an Estate in Fee Simple, Fee Farm, or other perpetual Interest:
- (11.) Trustees under any Will or Settlement entitled in Fee Simple, or for a perpetual Estate, or to any Estate specified in Number (4.), and having an independent Power to sell the same; provided, however, that when such Power is to be exercised with the Consent of any Person, no such Lease shall be valid without such Consent:
- (12.) Governors of Endowed Schools for Ireland, seized or possessed of any Lands in Fee Simple or Fee Farm, or other perpetual Interest, or entitled to any Estate specified in Number (4.); provided that no Lease for any Term exceeding Thirty-one Years shall be valid without the Licence in Writing of the Lord Primate, Lord Chancellor, Archbishop of Dublin, and the Chief Justice of the Queen's Bench, Chief Justice of the Common Pleas, and Chief Baron of the Exchequer, or any Three of them, written on or annexed to such Lease.

And with respect to Cases of Disability of Parties otherwise empowered to make Leases, be it enacted as follows:

Legal Incapacity or Disability of Person having Power to lease.

IV. In case any Person (not being a Trustee or Feoffee), who would be entitled to make Leases under this Act or otherwise, shall happen to be under the following Disabilities or Incapacities, the Power shall be exercised on his or her Behalf, in the following Manner:

If under the Age of Twenty-one Years, by his or her Guardian appointed by Will or Settlement, or by the Court of Chancery, and if such Person have no Guardian, it shall be lawful for the Court of Chancery in Ireland, on Petition in a summary Way, to appoint a Guardian of such Person under Age, for the Purpose of any Proceeding under this Act, and to change him from Time to Time, and the Power shall be executed by the Guardian so appointed:

If lunatic or idiot, or non compos mentis, by the Committee of the Estate, and if there shall be no Committee of the Estate, or no Inquisition finding such Person idiot or lunatic, it shall be lawful for the Court of Chancery in Ireland, by Petition in a summary Way, to appoint a Guardian of such Person for the Purpose of any Proceeding under this Act, and to change such Guardian from Time to Time, and the Power shall be executed by the Guardian so appointed:

Provided

Provided always, that no Lease made of the Estate of any Person under Age, or of unsound Mind, or non compos mentis, for any Term exceeding *Thirty-one Years*, shall be valid without the Consent in Writing of the Lord Chancellor, Master of the Rolls, or One of the Masters in Ordinary of the Court of Chancery in Ireland, written on or annexed to such Lease, such Consent to be obtained in a summary Manner by Petition to the said Court of Chancery by any Party interested therein.

V. In case any Person who would be entitled to make Leases under this Act or otherwise, shall have mortgaged or otherwise incumbered his Estate or Interest, and such Incumbrancer shall have gone into lawful Possession or Receipt of the Rents and Profits of such Estate or Interest, the Power shall be exercised by the Incumbrancer so in possession or receipt of the Rents; and in case any such Incumbrancer shall have procured the Appointment of a Receiver under the Court of Chancery, the Power shall be exercised by the said Receiver, with the Consent in Writing of the Receiver Master of the Court of Chancery, written on or annexed to such Lease.

And with respect to the Periods of Time for which Leases may be made under this Act, be it enacted as follows :

VI. A Lease made by a Person empowered by this Act merely may be granted for the following Periods of Time, according to the Purpose for which it is made :

- (1.) Agricultural Leases of Arable Land, or of Pasture Land for the Purpose of grazing, for a Term not exceeding *Thirty-one Years* : Agricultural Leases.
- (2.) Improvement Leases of Waste, Barren, Bog, or Mountain Land, for the Purpose of Reclamation, for a Term not exceeding *Sixty-one Years* : Improvement Leases.
- (3.) Mining Leases of Mines, Minerals, Quarries of Marble and Stone, Collicries, Beds of Clay, Flint, Ochre, Fullers Earth, and other Matters usually found in the Earth, and fit for the making and manufacturing of Wares, together with an adequate Portion of adjoining Land for Accommodation Purposes, for a Term not exceeding *Forty-one Years* : Mining Leases.
- (4.) Building Leases of suitable Land for the Purpose of building Dwelling Houses, Warehouses, Offices, Shops, and Stores, and Leases for Mills and Factories, and making Milldams, Races, Ponds, and other necessary Conveniences for such Mills and Factories, together with an adequate Portion of adjacent Land for the Erection of Labourers Dwelling Houses, for a Term not exceeding *Ninety-nine Years* : Building Leases.

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(5.) Public

Public
Leases.

- (5.) Public Leases for the Purpose of erecting public Gaols, Light-houses, Ports, and Harbours, County Infirmaries, public Hospitals, Dispensary Buildings, Workhouses, Police Barracks, Coast-guard Stations, and other Works and Buildings of a public Nature, and for a public Purpose, and public Schools, and Model Farms, founded or endowed by any Body authorized by any Charter or Act of Parliament so to do, of Land not exceeding Thirty Acres, for a Term not exceeding *Nine hundred and ninety-nine* Years, or in Fee Farm.

And with respect to the Nature and Contents of such Leases be it enacted as follows :

Leases to be
in possession.

VII. Every such Lease made under this Act shall be a Lease in possession and not in reversion, or by way of future Interest: Provided always, that it shall be lawful for every such Person hereby authorized to make Leases, at any Time within Seven Years of the Termination of any Lease for a Term of Years made before or under this Act, to execute a new Lease under this Act to the Person or Persons in whom the original Lease shall be vested, and such new Lease shall operate as a Surrender of the former Lease.

General
Covenants
and Condi-
tions.

VIII. Every Lease made under this Act shall import and imply the following Covenants, Conditions, and Agreements on the Part of the Tenant, his Heirs, Executors, and Administrators, with the Landlord, his Executors, Administrators, and Successors in Estate, and the same shall be as effectual and binding as if they were expressly inserted in such Lease :

1. That the Tenant shall pay when due the Rent reserved, and all Taxes and Impositions payable by the Tenant :
2. That the Tenant shall repair, maintain, and keep the demised Premises during the Term in good and substantial Repair, with all Buildings, Fixtures, and Improvements, and all Gates, Hedges, Ditches, Fences, Drains, existing or erected at any Time during the said Term :
3. That the Tenant shall give up peaceable Possession of the demised Premises, with all Buildings, Erections, Fixtures, and Improvements thereon, in good and substantial Repair and Condition, on the Determination of the Lease, subject, however, to any Right of Compensation for Improvements that may have arisen in respect of them :
4. That it shall be lawful for the Landlord or his Agent, at all reasonable Times, to enter on and inspect the Premises :
5. Also to re-enter, in case of Nonpayment of the Rent after it is due :

6. Also

6. Also to re-enter, in case of any unlawful Assignment or Sub-letting.

IX. Every Agricultural Lease made under this Act shall, in addition to the Covenants and Conditions enumerated in Section VIII., also import and imply the following Covenants on the Part of the Lessee :

Agricultural
Covenants.

1. To manage, till, and use the Lands demised, in due and regular Course of good Husbandry, so that the same shall not be in anywise injured or deteriorated :
2. Not to burn, or permit to be burnt, any Part of the Soil or Surface of the Lands demised, without the previous Consent in Writing of the Landlord.

X. Every Improvement Lease made under this Act shall, in addition to the Covenants and Conditions enumerated in Section VIII., also import and imply the following Covenant and Agreement on the Part of the Lessee :

Improvement
Covenants.

- To proceed to improve the said Lands within Twelve Months after the Commencement of the Lease, and effectually to reclaim at least *One Tenth* Part of the said Lands during every Three Years of the said Term, until the whole or so much thereof as is capable of Reclamation shall have been reclaimed, and that in default the said Lease shall be void, and it shall be lawful for the Lessor and his Successors in Estate to re-enter and possess themselves as of their former Estate.

XI. Every Mining Lease made under this Act shall, in addition to the Covenants and Conditions enumerated in Section VIII., also import and imply the following Covenant and Agreement on the Part of the Lessee :

Mining
Covenants.

1. To commence effectually to work the Mines, Minerals, Quarries, or Beds of Earth demised, within *Two Years* next after the Commencement of said Lease, and afterwards to continue the effectual carrying on of the said Works, and that in default thereof the said Lease shall be null and void, and it shall be lawful for the Lessor and his Successors in Estate to re-enter and possess themselves as of their former Estate.

XII. Every Building and Public Lease made under this Act shall, in addition to the Covenants and Conditions enumerated in Section VIII., also import and imply the following Covenant and Agreement on the Part of the Lessee :

Building
Covenants.

- To erect in a permanent and substantial Manner on the demised Premises, Buildings of an annual Value of not less than *Three Times*

Times the highest Rent reserved in the said Lease, or to repair or improve Buildings already erected, such Repairs or Improvements being such that the annual Value of the Lands demised shall be thereby increased to not less than *Twice* the Rent reserved in such Lease; and that in case such Buildings or Improvements shall not have been made within *Five Years* from the Commencement of the said Lease, that the said Lease shall be null and void, and that the Lessor and his Successors in Estate may re-enter and possess themselves as of their former Estate.

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Lessee
punishable
for certain
Waste.

XIII. The Lessee in every Lease made under this Act (except a Mining Lease), shall be liable for all Waste by him permitted or committed, but shall, nevertheless (unless by the said Lease otherwise expressly provided to the contrary), be at liberty to make such Additions and Alterations in and upon the Lands and Premises demised, and to dig for, and use in and upon, and remove from the same such Stone, Limestone, Earth, Clay, Loam, Marl, Sand, and Gravel as may be necessary to use on or remove from the Premises, for effecting the Purposes for which said Lease was granted.

Partial Re-
entry.

XIV. Where any Lease shall be made under this Act for the purpose of building, and the Lessee therein shall be empowered to assign, or sublet in Parcels, it shall be lawful, by express Terms in the said Lease, to confine the Right of Entry or Re-entry for the Breach of any of the Covenants and Conditions therein contained or implied, to the Part of the Lands in respect of which the Breach or Default shall have been committed or suffered; and that notwithstanding the Avoidance of such Lease as to Part only of the Lands demised, the Conditions of Re-entry, and all the Covenants in said Lease applicable thereto, shall remain in full Force as to the Residue of the said Lands.

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And with respect to the Rents to be reserved by such Leases, be it enacted as follows:

Best Rent to
be reserved.

XV. The Rent reserved in any Lease made under this Act shall be the best improved yearly Rent that at the Time of making such Lease can be obtained or reasonably expected, without Fine or Consideration of any kind: Provided always, that in the Case of a Mining Lease, the Rent reserved shall not be less in Value than the *One Twentieth* Part or Share of the Produce raised out of such Mines or Minerals, without regard to the Expense of digging, raising, and laying the same on the Bank; and that in every such Mining Lease made by a partial Owner, who shall not be himself punishable of Waste, *Two Fifts*

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Fifth Parts of the yearly Rent be reserved to the Lessor and the other *Three Fifth* Parts to the Parties entitled to the next vested Estate of Inheritance in the Mines comprised in the said Lease, during the Time such Estate shall continue vested in them : Provided also, that it shall
5 be lawful to reserve a reduced Rent, either fixed or progressively increasing, for the First *Three* Years of the Term in the Case of any Building Lease, and for the First *Seven* Years in the Case of any Improvement Lease.

XVI. The Rents reserved on any Agricultural Lease made under
10 this Act may, if the Parties to the said Lease so think fit, at the Time of making the said Lease be therein made subject to Variation according to the Change in the Valuation of the Premises demised by the said Lease, as the same may be valued under any general Valuation of the Premises then or thereafter in force in Ireland.

15 XVII. The Rents reserved and the Covenants and Conditions contained or implied in any Lease made under this Act shall cease to the Persons who for the Time being would, if such Lease had not been made, be entitled to the actual Possession of the Lands comprised in said Lease, or to the Receipt of the Rents and Profits thereof according
20 to their Estates and Interests therein.

XVIII. Every Lease made under this Act shall be by Indenture sealed and delivered by the Lessor in the Presence of One or more than One Witness, and may be in the appropriate Form contained in the Schedule to this Act annexed, with such Variations as the Circum-
25 stances of the Case may require, and a Counterpart of every such Lease shall be executed by the Lessee thereof.

XIX. Every Agricultural and Improvement Lease made under this Act shall be chargeable with a Stamp Duty of *One Shilling*, and no more, and every Counterpart shall be subject to the like Stamp Duty,
30 and no more, which Duties shall be subject to the like Laws and Regulations as to Collection and Management, Fines, Forfeitures, and Penalties as other Stamp Duties of the same Kind and Description in Great Britain and Ireland have been, are, or shall be hereafter subject to, as fully as if the said Laws and Regulations had been
35 specially enacted herein with reference to the Duties hereby imposed.

XX. A Memorandum containing the full Particulars of every Lease made under this Act may be lodged with the Clerk of the Peace of the County in which the Lands demised shall be situate, by any Person interested in such Lease, containing the Name and Description of the
40 Lands demised, with the Townland and Barony and County in which they

they or the greater Portion thereof are situate, the Names and Description of the Lessor and Lessee, the Rent reserved, the Date of the Execution, and Term demise, and such Particulars shall be registered by the Clerk of the Peace in a Book to be provided for that Purpose, to be called "The Registry of Leasehold Interests," with a convenient Index according to an alphabetical Arrangement of the Townlands, for which Registry the Fee of *Shillings* and no more shall be paid, and such Registry shall be open to Inspection at all reasonable Times for the Fee of *Sixpence*, and such Clerk of the Peace shall deliver without further or other Fee a Registry Certificate of said Registry to the Person making such Registry, and such Certificate shall be received in any Court as Evidence of the Registry of such Lease.

And with respect to the Force and Efficacy of Leases to be made pursuant to this Act, be it enacted as follows:

Leases made pursuant to Act to bind all Persons deriving under same Title or Settlement.

XXI. Every Lease made pursuant to the Provisions of this Act shall be valid and effectual to bind the Lessor, his Heirs, Executors, Administrators, Assigns, and Successors in Estate, and all Persons whomsoever deriving under the same Title or Settlement as that under which the Lessor derives, and notwithstanding any Entail, Law, or Custom to the contrary, and whether there be any Leasing Power annexed or belonging to the Estate of such Lessor, but so as not to prejudice or interfere with any other Power of leasing to him belonging.

And whereas it is expedient to make Provision against accidental Defects in Leasing Powers under this or any other Act of Parliament, or under any Settlement in Cases coming substantially within the Scope and Intention of such Act or Settlement, be it therefore enacted as follows:

Provision for accidental Defect of Powers

XXII. In any Case in which a Power to make Leases pursuant to the Provisions of this or any other Act, or any Settlement, shall be incapable of being exercised by reason of some accidental and unforeseen Event or Variation of the Circumstances of the Case necessary to bring the same within the exact Terms of the Act or Settlement, it shall be lawful for the Court of Chancery in Ireland, by any Order to be made upon a summary Petition presented to it by any Party interested in the Matter, and upon Notice being given to such Person as the Court shall think necessary to authorize, and empower any Person described in such Act or Settlement to make Leases, notwithstanding any such Variation in the Circumstances of the Case as the Court shall consider not to involve a substantial Departure from the true Scope and Meaning of such Act or Settlement, and every Lease made

See 11 & 12 Vict. c. 35 s. 16.

made in pursuance of such Order, although not warranted by the exact Terms of such Act or Settlement, shall be as valid as if the Terms of such Act or Settlement had been qualified, explained, or enlarged by the Terms of such Order.

- 5 And with respect to informal Leases made under Leasing Powers, be it enacted as follows:

XXIII. Where any Lessee shall have entered into possession, under any Lease made in the intended Exercise of any Leasing Power conferred by this or any other Act of Parliament, or by any Settlement, without fraudulent Concert to injure the Rights of the Successors in Estate of the Lessor, and such Lease shall be invalid by reason of some Non-compliance with the Terms of the Power, such Lease shall, in case the Lessee shall so desire it, and the Successor in Estate of such Lessor shall not be willing to confirm such Lease without Variation, be deemed to be a sufficient Contract to be enforced in a Court of Equity for a Grant of a valid Lease under the Power to the like Purpose and Effect, save so far as any Variation may be necessary to comply with the Terms of the Power: Provided that this Provision shall not extend to any Lease already surrendered or relinquished, or impeachable in any Action or Suit now pending by reason of such Invalidity.

Informal Lease to be valid as a Contract.
19 & 20 Viet. c. 2.

Sec. 7.

XXIV. Where any Lessor or his Successor in Estate shall during the Continuance of the Possession taken under any such invalid Lease as aforesaid, be competent to confirm such invalid Lease without Variation, and shall offer so to do, the Lessee shall be bound on Request to accept such Confirmation, and such Confirmation may be by a Memorandum in Writing, signed by such Lessor or his Successor, and by such Lessee or by some other Person by them thereunto lawfully authorized, and after such Confirmation of said Lease and Acceptance thereof, such Lease shall be valid and take effect as if it had been originally valid.

Successor may confirm without Variation.
13 Viet. c. 17. s. 3.

XXV. Where upon or before the Acceptance of Rent under any such invalid Lease by the Successor in Estate of such Lessor, any Receipt, Memorandum, or Note in Writing, expressing in Terms a Confirmation of such Lease, is signed by such Successor in Estate, such Acceptance as against such Successor shall be deemed a Confirmation of such Lease.

Partial Confirmation.
13 Viet. c. 17. s. 2.

XXVI. Where any Lease, made in the intended Exercise of any supposed Leasing Power conferred by this or any other Act of Parliament, or by any Settlement, shall be invalid by reason of the Lessor not

Invalid Lease validated by subsequent Accord of Title.
not

12 & 13 Vict. c. 25. s. 4. not having at the Time Power to make such Lease, and the Estate of such Lessor in the Lands comprised in such Lease shall have continued, or shall have accrued and continued, until after such Lease might have been lawfully granted, such Lease shall take effect out of such Estate, and be as valid as if it had been granted at such last-mentioned Time; provided such Lease had not been then already surrendered or relinquished.

General Lease validated by co-existing Power. 12 & 13 Vict. c. 26. s. 5. XXVII. Where any Lease shall be made by a Lessor having a valid Power of leasing the Lands comprised in such Lease, and such Lease cannot take effect, or have Continuance, independently of such Leasing Power, every such Lease shall take effect and be as valid as if the same were intended and had been expressed to have been granted in exercise of the said Power, although such Power be not referred to; provided that this Enactment shall not apply to any Lease already surrendered or relinquished, or impeachable in any Action now pending by reason of such Invalidity.

Remedy on Covenants preserved. 12 & 13 Vict. c. 26. s. 6. XXVIII. Nothing herein contained in respect of such invalid Leases shall prejudice or take away any Right of Action or Remedy to which, but for this Act, the Lessee might have been entitled under any Covenant for Title or quiet Enjoyment contained in such Lease, or any Right of Entry or Re-entry, or other Right or Remedy, to which the Lessor, or his Representatives or Successors in Estate, might, but for this Act, have been entitled to by reason of any Breach of Covenant or other Agreement contained in such Lease.

And with respect to Agreements with Improving Tenants for Compensation for Improvements, be it enacted as follows:

Partial Owner may enter into Agreement for Compensation of Improvements. XXIX. It shall be lawful for any Person who is by this Act enabled to make an Agricultural Lease of Lands, by any such Lease or by a separate Instrument in Writing (which Instrument shall not be subject to any Stamp Duty), signed by such Person, to enter into an Agreement with the Tenant of such Lands, or his lawful Representative or Assign, to the Effect that such Tenant, or his Representative or lawful Assign, shall, on the Determination of the Tenancy by Effluxion of Time, Notice to quit given by the Landlord, Death, Bankruptcy, Insolvency, or Eviction by Title paramount to the Title of the said Landlord, be entitled as against the Person evicting or disturbing the Possession of such Tenant, to Compensation for any bona fide Expenditure in Capital or Labour to be thereafter made on the Lands in his Possession as Tenant thereof, and to stipulate in such Agreement as to the Number of Years which shall be taken as the Period of Compensation under each and every Head of Improvement made

made as aforesaid, and as to the maximum Amount of Allowance to be made for the same, and also as to such other Matters touching the said Improvements, not being inconsistent with the Provisions of this Act, as shall seem to him to be expedient; provided, however, that Expenses incurred in the ordinary Course of good and clean Husbandry, or in pursuance of any special Contract, other than the Agreement hereby authorized, shall not be considered as Expenses to be compensated under any Agreement made by virtue of this Act.

XXX. Every such Agreement shall contain, or be connected with by express Reference to, a Plan, Specification, and Estimate of the Works proposed to be executed; which said Plan, Specification, and Estimate shall constitute a Part of the said Agreement.

Specification of the Nature and Cost of proposed Works.

XXXI. Every such Agreement shall be made with such Consent and Licence as an Agricultural Lease made by the same Person under this Act is hereby required to have, if any.

Consents to be procured in certain Cases.

XXXII. Every such Agreement made pursuant to this Act shall be binding on all Persons whomsoever, subject, however, to the Limitations as to the Period of Compensation and Amount of Allowance herein-after provided.

Agreements to be binding on all Persons.

XXXIII. Where any such Agreement for Compensation in respect of Improvements shall be made under this Act, either by Indorsement on any Lease, or by a separate Instrument in Writing, distinct from the Lease, a Copy of such Agreement, signed by the Landlord, shall be lodged with the Clerk of the Peace of the County, and shall be registered in the Registry of Improvements to be provided by the Clerk of the Peace of the County, in the like Manner and for the like Fee as a Lease made under the foregoing Provisions.

Copy of Agreement to be lodged and registered with Clerk of the Peace.

XXXIV. The Period of Compensation specified in any such Agreement shall not be binding on any Successor in Estate by virtue of this Act merely, for any greater Number of Years than the following; that is to say,

Limit of the Period of Compensation.

- (1.) In respect of any Agricultural Building to be erected, enlarged, or improved, for a Period not exceeding *Forty Years*;
- (2.) In respect of the Reclamation of Waste Land or Cut-out Bog, for a Period not exceeding *Twenty-five Years*;
- (3.) In respect of making of Farm Roads for the convenient Cultivation of the Farm, for a Period not exceeding *Ten Years*;
- (4.) In respect of the Main or Through Drainage of Land, or Improvement of the same by Irrigation, for a Period not exceeding *Ten Years*;

17.

(5.) In

- (5.) In respect of the durable Improvement of Land by clearing away of Rocks or Stones, for a Period not exceeding Seven Years:
- (6.) In respect of the making of Boundary Fences, or internal Fences or Inclosures of Coppice Wood, for a Period not exceeding Seven Years:
- (7.) In respect of the durable Improvement of the Land by marling, liming, claying, or otherwise amending the Soil, for a Period not exceeding Five Years:
- (8.) In respect of temporary Improvement of the Land by the Use of particular Manures or Articles of Food for Live Stock, or in respect of any other Kind of Improvement in the said Agreement specified, and not herein-before provided for, for a Period not exceeding Two Years:

And the Number of Years fixed as the Period of Compensation by any such Agreement, or limited by the foregoing Provision, shall be computed from One Year next after the Date of such Lease or Agreement, and every such Tenant having made such Improvement shall, in case of his being evicted or dispossessed in manner herein-after stated, and before the Expiration of the full Period of Compensation fixed or limited as aforesaid, be entitled to be reimbursed such Proportion of his entire Outlay as the Number of Years, and the proportionate Part of a Year unexpired at the Determination of his Tenancy in the Manner aforesaid, shall bear to the entire Period of Compensation fixed or limited as aforesaid.

Limit of the Amount of Allowance.

XXXV. The Amount of Allowance in Money stipulated to be made in respect of any One or more of such Improvements, by any One or more than One, such Lease or Agreement shall not be binding on any Successor in Estate by virtue of this Act merely, to any greater Extent in the Aggregate than the Amount of *Four Years* clear yearly Value of the Lands on which such Improvements, or any of them, shall have been made, after deducting Rent and all public Taxes and Assessments.

Certificate of Completion to be obtained within Three Years.

XXXVI. When and so soon as such Lease or Agreement shall have been registered as aforesaid, it shall be lawful for the Tenant to commence and execute his proposed Improvements, and having completed the same at any Time within *Three Years* from the Date of such Lease or Agreement, to present to the Assistant Barrister sitting at Quarter Sessions in the District in which the holding, or the greater Part thereof, shall be situate, for his Signature, a Certificate of Completion according to the Form No. . in the Schedule to this Act annexed; and such Assistant Barrister, on Proof that due Notice of the intended Application for a Certificate of Completion (accompanied by

by a true Copy of the proposed Certificate) had been served on the Landlord entering into such Agreement as aforesaid, or his Successor in Estate, at least *Fifteen* Days before the First Day of such Sessions, and if no sufficient Objection be made thereto, and being satisfied that the said Certificate corresponds substantially with the Particulars of the Agreement or Lease, Plan, Specification, and Estimate, and that the said Works have been duly executed accordingly, shall, if he shall so think fit, sign a Certificate of Completion, and the same, when so signed, shall be thereupon handed by the said Assistant Barrister to the Clerk of the Peace, who, on Receipt thereof, and Payment of a Fee of *Two Shillings and Sixpence*, and no more, shall cause the said Lease or Agreement, lodged by the Tenant in manner aforesaid, to be annexed to such Certificate, and shall enter the material Particulars of the said Certificate in the Book called the "Registry of Improvements," with a proper and convenient Reference to the Number of such Agreement and Certificate.

XXXVII. The said Landlord, or his Successor in Estate, or any Person whose Estate or Interest in the Lands may be prejudiced or affected by the Allowance of the proposed Certificate of Completion, shall be at liberty, if dissatisfied therewith, to appear at the Quarter Sessions at which the said Certificate will be tendered to the Assistant Barrister for his Signature, and object to the Allowance of the said proposed Certificate, and for that Purpose may adduce Evidence to disprove or contradict the same in the whole or in part, and the Assistant Barrister shall thereupon either allow or disallow, or modify or alter the proposed Certificate, or postpone his Decision thereon to any subsequent Sessions for farther Evidence, or direct such additional Evidence to be brought before him, or other Parties to be served with Notice, as he shall think right, and make such Order therein as to Costs as shall be agreeable to Justice.

XXXVIII. In all Cases in which the Right to obtain a Certificate of Completion shall be litigated, it shall be lawful for any Party dissatisfied with the Decision of the Assistant Barrister, and who has appeared before him in Person, or by Attorney, to appeal to the next going Judge of Assize, first giving Notice to the Persons who appeared on the opposite Side in the Court below, of his Intention to appeal, at least *Fifteen* Days before the Commencement of the Assizes, provided so many Days shall intervene; and in other Cases it shall be lawful for him to appeal at the next subsequent Assizes, giving a similar Notice of Appeal; and the Judge who shall hear such Appeal shall either affirm or reverse the Assistant Barrister's Decision, or alter or modify the proposed Certificate, and finally decide thereon, and make such

such Order as to the Costs in the Court below and the Costs of the Appeal as shall be agreeable to Justice.

Certificate
not to be
registered
pending
Appeal.

XXXIX. Where the Right to a Certificate of Completion is litigated, such Certificate, if granted, shall not be registered until after the Expiration of the Period herein-before allowed for appealing; 5 and in Cases where an Appeal is made, then not until after the Determination of such Appeal.

Certificate to
be final.

XL. The Certificate of Completion when registered shall be final and conclusive of the Truth of every Matter and Thing stated therein, and the same or a Copy thereof, purporting to be signed by the 10 Clerk of the Peace, shall be conclusive Evidence that the Provisions of this Act as to all Proceedings preliminary to the obtaining thereof have been complied with; and no other Evidence than a Copy thereof, purporting to be signed as aforesaid, shall be requisite in any Proceeding respecting the same: Provided always, that nothing 15 herein contained shall be deemed or taken to give Validity to any Certificate fraudulently obtained, but that every Person affected by any such Certificate may impeach the same on the Ground of Fraud, by Application on Notice to the Tenant or his Representatives, made within Six Years from the Date of the Registry thereof to 20 the Assistant Barrister, who may order the same to be removed from the Registry, on being satisfied by Evidence that the Registry of the same was fraudulently obtained or procured: Provided always, that it shall be competent for any Tenant to appeal from such Order of the Assistant Barrister to the next going Judge of Assize, first giving to 25 the Party on whose Application such Order shall have been made, or his legal Representative, due Notice of his Intention to appeal at least Fifteen Days before the Commencement of the Assizes, provided so many Days shall intervene; and in other Cases it shall be lawful for such Tenant to appeal at the next subsequent Assizes giving 30 a similar Notice of Appeal.

Recovery of
Compensation
by Civil
Bill or Action.

XLI. Every Sum ascertained by the Certificate of Completion as the Amount of the Compensation to which the occupying Tenant shall be entitled under this Act for Improvements, limited as 35 aforesaid to the Maximum chargeable by virtue of this Act, and reduced by such proportionate Part (if any) as shall be equivalent to the Period of Enjoyment, when the Amount claimed shall not exceed the Sum of Forty Pounds, shall be sued for and only be recoverable by Civil Bill Process, in which the Tenant for the Time being who shall be evicted, or his Representative, shall be the Plaintiff, and the 40 Landlord for the Time being at the Period of such Eviction, or his Representative,

Representative, shall be the Defendant, and an Appeal shall lie for the Plaintiff and Defendant from every Decree and from every Dismissal, whether on the Merits or without Prejudice, in the same Manner and subject to the same Regulations as are at present or may be hereafter in force relating to Appeals from the Decisions of Assistant Barristers in other Actions; and when the Amount claimed shall exceed Forty Pounds, the same shall be sued for by Action in the Superior Courts of Law, in which the Tenant for the Time being whose Interest shall be evicted shall be the Plaintiff, and the Landlord for the Time being at the Period of such Eviction shall be the Defendant.

XLII. In any Action or other Proceeding brought or taken by any Tenant for any Sum to which he shall be entitled as Compensation under this Act, it shall be lawful for the Landlord, if necessary, to avail himself of the following Matter, by way of Defence to such Claim; (that is to say,)

*Landlord's
Grounds of
Defence to
Tenant's
Claim under
this Act.*

That the Tenant, subsequently to the making of the Improvement or Expenditure for which he claims Compensation, did, without the Consent in Writing of his Landlord, or the known Agent or Receiver of such Landlord duly authorized in that Behalf, unlawfully sublet or subdivide all or some Part of his Holding; and it shall not be necessary for such Landlord to produce in Evidence, or prove the Deed or Instrument (if any) by which such subletting of such Holding was made.

XLIII. In all Cases in which the Person liable to the Payment of any Sum of Money for Compensation, shall be entitled as against the Person claiming the same to any Cross Demand or Deduction for or in respect of any bad Husbandry, Dilapidation, Want of sufficient Repair, Waste, or Destruction, of or in the Improvements for which Compensation is so claimed, or shall be entitled to any Arrear of Rent due out of such Holding, or to any Sum or Sums of Money or Damages for or in respect of Rates, Taxes, or Assessments left unpaid by such Tenant, and to which such Tenant or his Holding was liable, or for or in respect of the Breach of any Covenant or Agreement in respect of such Holding, which the Person claiming such Compensation was bound to fulfil, it shall be lawful for such Person liable to the Payment of such Sum of Money to set off in any Action, Civil Bill, and other Proceeding for the Recovery of such Sum of Money, the Amount of such Deduction, Rent, Sum or Sums of Money, or Damages against the Amount to which the Person claiming such Sum of Money shall be entitled; and it shall be competent for the Court which shall adjudicate on such Tenant's Claim, at the same Time, and by the same Decree, or Judgment, or Order, to adjudicate on such Set-off or Cross Demand, either by deducting the Amount thereof

*Landlord
may set off
Cross
Demands.*

thereof from the Claim, or by giving a Decree, or Verdict, or Order for the Defendant, in Cases where the Amount established as a Set-off, or by way of a Cross Demand, shall exceed the Amount which the Tenant is entitled to recover: Provided always, that in Civil Bill Proceedings Notice of such Set-off or Cross Demand, in Writing, signed by the Defendant or his Attorney, shall be given at least Six Days before the Commencement of the Quarter Sessions or Assizes at which the Case may be heard, which Notice shall contain the full Particulars of such Set-off or Cross Demand, and that in Proceedings in the Superior Courts such Set-off or Cross Demand shall and may be established or relied on in the same Way as Matters of Set-off may be relied on or established by the Practice of the Superior Courts.

No Tenant to be entitled to Compensation, if Landlord, at the End of his Tenancy, be willing to continue him in Occupation.

XLIV. No such Tenant shall have any Claim to Compensation for Improvements coming within any of the said Classes, if upon the Determination of the Tenancy such Tenant shall give up the Occupation of his Holding, notwithstanding that the Landlord shall be willing to allow him to continue Tenant for the then unexpired Residue of the respective compensating Periods, upon the Terms and at the Rent at which he theretofore held.

In default of Payment by Landlord of the Sum awarded, Tenant may at his Option continue in possession.

XLV. When any Sum of Money shall be awarded by any Decree, Judgment, or Order, to be paid by any Landlord to any Tenant under this Act, such Sum shall be paid by such Landlord on or before the Day for Payment thereof specified in such Decree, Judgment, or Order, and if such Landlord shall make Default in Payment of any Sum awarded by any such Decree, Judgment, or Order in respect of any Compensation ascertained by a Certificate of Completion, duly registered as aforesaid, in such Case it shall be lawful for the Tenant, if in possession at the Time of obtaining such Decree, Order, or Judgment, at his Option to continue in possession of the Holding as Tenant from Year to Year, upon the Terms and at the Rent at which he theretofore held the same until the said Sum so awarded shall have been fully paid and satisfied, or compensated for: Provided always, that such Tenant, if in possession, shall not be bound or obliged, after any such Decree, Judgment, or Order shall have been pronounced, to continue in possession of his Holding, but may proceed to levy by Execution the Sum of Money so awarded to him from the Landlord against whom the same shall have been awarded, if no new Tenancy shall in the meantime have been created.

Staying Execution in Ejectment where registered Claim for Compensation.

XLVI. In any Case in which a Defendant in any Ejectment Proceeding, other than for Nonpayment of Rent or Breach of any Covenant or Condition contained in the Lease or Agreement, shall establish by Affidavit or other Evidence, to the Satisfaction of the Court

Court in which such Proceedings shall be pending, that he has, as against the Party proceeding to evict his Interest in the Lands in his Possession, and in respect of such Lands a valid Claim for Compensation, duly registered under this Act and unsatisfied, it shall be lawful
5 for the Court to stay the Execution of any Writ of Habere facias possessionem, or Decree for Possession, for a reasonable Time to enable such Defendant to establish his Claim and avail himself of the Option herein-before in such Case given, upon such Terms, nevertheless, as to giving Security and otherwise as to the Court shall seem proper and
10 just.

XLVII. If any Landlord, after the Lodgment with the Clerk of the Peace of a Copy of the Agreement, in the Manner herein-before provided, and before the Period for obtaining a Certificate of Completion shall have expired, shall proceed, by any Process of Law,
15 against such Tenant, for the Purpose of evicting, and shall evict the Interest of such Tenant in any Holding in respect whereof such Agreement has been lodged, otherwise than for Nonpayment of Rent or Breach of Covenant, Condition, or Agreement, it shall be thereupon lawful for such Tenant to proceed by Civil Bill Process, according
20 to the Practice of the Civil Bill Court, against such Landlord, for the Purpose of recovering a just and reasonable Compensation for the Expenditure, in Labour and Money, bonâ fide made by such Tenant in such Improvements, pursuant to the Provisions of this Act; and the Assistant Barrister shall (subject, however, to the
25 Provisions herein contained) give a Decree to him for such Amount as he shall be entitled to, on its being proved that such Improvements were bonâ fide made, or partly made, by such Tenant, pursuant to such Agreement and the Provisions of this Act; and an Appeal may be made from the Decision of the Assistant Barrister in the same Way as
30 in other Cases is provided by the statutable Enactments now or hereafter to be in force regulating the Course of Civil Bill Proceedings.

XLVIII. In Cases of Doubt or Difficulty, or contradictory Evidence in any Proceeding before the Assistant Barrister under any of the aforesaid Provisions, it shall be competent for such Assistant Barrister
35 to postpone his Decision until the next subsequent Sessions, and, if he think right so to do, to direct a Reference to the Commissioners of Public Works in Ireland, requiring them, or some properly qualified Person to be by them deputed for the Purpose, to report specially on any Question of Fact which the Assistant Barrister may desire to
40 ascertain, for which Report the Person making the same shall be entitled to receive such a reasonable Fee, to be paid by such Party or Parties, as the Assistant Barrister shall determine.

Forms to be
provided by
the Clerk of
the Peace.

XLIX. All Forms of Specifications, Undertakings, and Certificates of Completion intended to be lodged or deposited with the Clerk of the Peace, as herein-before provided, shall be obtained from the Office of such Clerk of the Peace, on Payment of a Sum of *One Shilling* for each Form; and the Clerk of the Peace for each County shall cause 5 printed Forms of Specifications and Certificates of Completion to be prepared on Parchment, of uniform Shape and Dimensions, with a sufficient Margin, and shall file the same as they shall be received, in compact Order, attaching them by Laces through the Margin to Portfolio Covers, after the Manner of Books, so that the same shall 10 be kept free from Injury, and easily accessible.

Penalty for
Neglect of
Duty in Clerk
of Peace.

L. If any Clerk of the Peace in Ireland shall refuse or wilfully omit to perform any Act which he is by any Provision in this Act contained, required or directed to do, he shall forfeit and pay to the Party thereby aggrieved, the Sum of *Five Pounds* for every such 15 Refusal or Omission, such Sum to be recovered by Civil Bill Process before the Assistant Barrister, in the same Manner as if it were a Debt due by the Person so refusing or omitting to the Party thereby aggrieved.

Schedules
Part of the
Act.

LI. The Schedules to this Act annexed shall be deemed and 20 taken to be a Part of this Act, and the Forms therein contained shall be used, save so far as the Nature of the Case may make it necessary or proper to vary from the same respectively, and no Variance or Defect, or verbal or technical Error therein, or in any Notice or Document under this Act, not calculated to mislead, shall 25 invalidate or vitiate such Proceeding, Notice, or Document.

Act only to
extend to
Ireland.

LII. And be it enacted, That this Act shall only extend to Lands in Ireland.